



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

ORIGINAL



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OFFICE OF  
GENERAL COUNSEL

**MEMORANDUM**

**SUBJECT:** Request for Concurrence on Region III's Request for a Removal Action Restart Resulting in an Expenditure of More Than \$6M at the Shaffer Equipment Company Site, Minden, Fayette County, West Virginia

**FROM:** Lee R. Tyner *Lee R. Tyner*  
Attorney  
Solid Waste and Emergency Response Division (2366)

**TO:** Timothy Fields, Jr.  
Acting Assistant Administrator  
Office of Solid Waste and Emergency Response (5101)

**THROUGH:** Lisa K. Friedman *LK Friedman*  
Associate General Counsel  
Solid Waste and Emergency Response Division (2366)

We have reviewed the above-described request for concurrence and, except as stated below, do not believe that it presents any significant legal problems. The exemption to the statutory \$2 million limit is based on emergency findings which are not particularly strong. This will be the fourth removal at this site. The first one was in 1984, thirteen years ago. The earlier removal actions were stabilizations, done with the expectation that there would be a remedial action later. When the site did not score high enough to be placed on the National Priorities List, this final removal action was proposed. While the site clearly presents a threat of release of PCBs, some of the more serious problems were addressed earlier. Should there be a cost recovery action (unlikely based on the enforcement addendum), there is some risk that our emergency finding might not be upheld. Questions might also be raised by the Inspector General.



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